Plea to exhume Oswald rejected

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FORT WORTH, Texas — A judge rejected a plea to open the presumed grave of presidential assassin Lee Harvey Oswald, saying rumors that a Soviet agent was buried there were not enough to violate the gravesite.

A lawyer for Marina Oswald Porter, widow of the man accused of assassinating President John F. Kennedy, said she was disappointed with the ruling.

The decision temporarily thwarted the efforts of British author-attorney Michael Eddowes, who claims a Soviet spy may be buried in the grave.

Civil District Judge James Wright issued a seven-page opinion supporting the position of Robert Oswald, Lee Harvey Oswald's brother, who claimed he owned the cemetery plot and did not want it dug up because it would lead to unwanted publicity.

The judge ruled that Eddowes' theories were insufficient reasons to have the grave opened, even though Mrs. Porter had given her permission.

Courtroom sources said an appeal was a certainty and Mrs. Porter's lawyer, Richard Levin, said his client "views it as a temporary setback."

"I know my client is very concerned about this and wants to see it through and try to unravel the whole mystery," Levin added.

The efforts last month of Eddowes, 76, to have the body exhumed were halted at the last minute by a temporary restraining order obtained by Robert Oswald.

Eddowes, who wrote a book "The Oswald File," claims a Soviet agent took Oswald's identity when Oswald defected to the Soviet Union in 1959. Eddowes said the agent returned to this country with Marina and a child in 1962 and killed Kennedy on Nov. 22, 1963.

Eddowes has never flatly stated that Oswald was replaced, only that there is a "50-50 chance," sufficient reason for an exhumation. His evidence involves physical discrepancies between the assassin's corpse and Oswald's previous medical records.

Pathologists have said that Oswald's 1958 Marine Corps dental records, when compared to the teeth of the body in the Fort Worth grave, could prove whether the body was really that of Lee Harvey Oswald.

But Wright issued a temporary injunction against exhumation and lawyers for Robert Oswald said a hearing date for a request for a permanent injunction would be sought.

In his seven-page opinion, Wright said: "In short, rumors, speculative theory, conjecture and public curiosity will not suffice. It is the opinion of this court that the plaintiff (Robert Oswald) has shown a probable right and a probable injury."

Wright said his opinion was based on legal precedent dating to 1867 and and the civil laws of ancient Rome.